



Senate

General Assembly

File No. 579

February Session, 2016

Substitute Senate Bill No. 366

Senate, April 11, 2016

The Committee on Energy and Technology reported through SEN. DOYLE of the 9th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ADMINISTRATION OF THE CONNECTICUT GREEN BANK, THE PRIORITY OF THE BENEFIT ASSESSMENTS LIEN UNDER THE GREEN BANK'S COMMERCIAL SUSTAINABLE ENERGY PROGRAM AND THE GREEN BANK'S SOLAR HOME RENEWABLE ENERGY CREDIT PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 16-245n of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (d) (1) (A) [There is established the Connecticut Green Bank, which
5 shall be within Connecticut Innovations, Incorporated, for
6 administrative purposes only.] The Connecticut Green Bank is hereby
7 established and created as a body politic and corporate, constituting a
8 public instrumentality and political subdivision of the state of
9 Connecticut established and created for the performance of an
10 essential public and governmental function. The Connecticut Green
11 Bank shall not be construed to be a department, institution or agency

12 of the state.

13 (B) The Connecticut Green Bank shall (i) develop separate programs
14 to finance and otherwise support clean energy investment in
15 residential, municipal, small business and larger commercial projects
16 and such others as the Connecticut Green Bank may determine; (ii)
17 support financing or other expenditures that promote investment in
18 clean energy sources in accordance with a comprehensive plan
19 developed by it to foster the growth, development and
20 commercialization of clean energy sources and related enterprises; and
21 (iii) stimulate demand for clean energy and the deployment of clean
22 energy sources within the state that serve end-use customers in the
23 state.

24 (C) The Clean Energy Finance and Investment Authority shall
25 constitute a successor agency to Connecticut Innovations,
26 Incorporated, for the purposes of administering the Clean Energy
27 Fund in accordance with section 4-38d. The Connecticut Green Bank
28 shall constitute a successor agency to the Clean Energy Finance and
29 Investment Authority for purposes of administering the Clean Energy
30 Fund in accordance with section 4-38d. The Connecticut Green Bank
31 shall have all the privileges, immunities, tax exemptions and other
32 exemptions of Connecticut Innovations, Incorporated, with respect to
33 said fund. The Connecticut Green Bank shall be subject to suit and
34 liability solely from the assets, revenues and resources of said bank
35 and without recourse to the general funds, revenues, resources or
36 other assets of Connecticut Innovations, Incorporated. The Connecticut
37 Green Bank may provide financial assistance in the form of grants,
38 loans, loan guarantees or debt and equity investments, as approved in
39 accordance with written procedures adopted pursuant to section 1-121.
40 The Connecticut Green Bank may assume or take title to any real
41 property, convey or dispose of its assets and pledge its revenues to
42 secure any borrowing, convey or dispose of its assets and pledge its
43 revenues to secure any borrowing, for the purpose of developing,
44 acquiring, constructing, refinancing, rehabilitating or improving its
45 assets or supporting its programs, provided each such borrowing or

46 mortgage, unless otherwise provided by the board or said bank, shall
47 be a special obligation of said bank, which obligation may be in the
48 form of bonds, bond anticipation notes or other obligations which
49 evidence an indebtedness to the extent permitted under this chapter to
50 fund, refinance and refund the same and provide for the rights of
51 holders thereof, and to secure the same by pledge of revenues, notes
52 and mortgages of others, and which shall be payable solely from the
53 assets, revenues and other resources of said bank and such bonds may
54 be secured by a special capital reserve fund contributed to by the state.
55 The Connecticut Green Bank shall have the purposes as provided by
56 resolution of said bank's board of directors, which purposes shall be
57 consistent with this section. No further action is required for the
58 establishment of the Connecticut Green Bank, except the adoption of a
59 resolution for said bank.

60 (D) In addition to, and not in limitation of, any other power of the
61 Connecticut Green Bank set forth in this section or any other provision
62 of the general statutes, said bank shall have and may exercise the
63 following powers in furtherance of or in carrying out its purposes:

64 (i) To have perpetual succession as a body corporate and to adopt
65 bylaws, policies and procedures for the regulation of its affairs and the
66 conduct of its business;

67 (ii) To make and enter into all contracts and agreements that are
68 necessary or incidental to the conduct of its business;

69 (iii) To invest in, acquire, lease, purchase, own, manage, hold, sell
70 and dispose of real or personal property or any interest therein;

71 (iv) To borrow money or guarantee a return to investors or lenders;

72 (v) To hold patents, copyrights, trademarks, marketing rights,
73 licenses or other rights in intellectual property;

74 (vi) To employ such assistants, agents and employees as may be
75 necessary or desirable, who shall be exempt from the classified service
76 and shall not be employees, as defined in subsection (b) of section 5-

270; establish all necessary or appropriate personnel practices and policies, including those relating to hiring, promotion, compensation and retirement, and said bank shall not be an employer, as defined in subsection (a) of section 5-270; and engage consultants, attorneys, financial advisers, appraisers and other professional advisers as may be necessary or desirable;

(vii) To invest any funds not needed for immediate use or disbursement pursuant to investment policies adopted by said bank's board of directors;

(viii) To procure insurance against any loss or liability with respect to its property or business of such types, in such amounts and from such insurers as it deems desirable;

(ix) To enter into joint ventures and invest in, and participate with any person, including, without limitation, government entities and private corporations, in the formation, ownership, management and operation of business entities, including stock and nonstock corporations, limited liability companies and general or limited partnerships, formed to advance the purposes of said bank, provided members of the board of directors or officers or employees of said bank may serve as directors, members or officers of any such business entity, and such service shall be deemed to be in the discharge of the duties or within the scope of the employment of any such director, officer or employee, as the case may be, so long as such director, officer or employee does not receive any compensation or financial benefit as a result of serving in such role;

(x) To enter into a memorandum of understanding or other arrangements with Connecticut Innovations, Incorporated, with respect to the provision or sharing of space, office systems or staff administrative support, on such terms as may be agreed to between said bank and Connecticut Innovations, Incorporated; and

(xi) To do all other acts and things necessary or convenient to carry out the purposes of said bank.

109 (E) (i) The Connecticut Green Bank may form one or more
110 subsidiaries to carry out the purposes of said bank, as described in
111 subparagraph (B) of subdivision (1) of this subsection, and may
112 transfer to any such subsidiary any moneys and real or personal
113 property of any kind or nature. Any subsidiary may be organized as a
114 stock or nonstock corporation or a limited liability company. Each such
115 subsidiary shall have and may exercise such powers of said bank, as
116 set forth in the resolution of the board of directors of said bank
117 prescribing the purposes for which such subsidiary is formed, and
118 such other powers provided to it by law.

119 (ii) Each subsidiary of said bank shall be deemed a quasi-public
120 agency for purposes of chapter 12 and shall have all the privileges,
121 immunities, tax exemptions and other exemptions of said bank, except
122 that in no event shall any such subsidiary have the power to hire or
123 otherwise retain employees and the governing documents of any such
124 subsidiary shall provide for the dissolution of such subsidiary upon
125 the completion of the purpose for which such subsidiary was formed.
126 Each such subsidiary may sue and shall be subject to suit, provided its
127 liability shall be limited solely to the assets, revenues and resources of
128 the subsidiary and without recourse to the general funds, revenues,
129 resources or any other assets of said bank. Each such subsidiary is
130 authorized to assume or take title to property subject to any existing
131 lien, encumbrance or mortgage and to mortgage, convey or dispose of
132 its assets and pledge its revenues to secure any borrowing, provided
133 each such borrowing or mortgage shall be a special obligation of the
134 subsidiary, which obligation may be in the form of bonds, bond
135 anticipation notes and other obligations, to fund and refund the same
136 and provide for the rights of the holders thereof, and to secure the
137 same by a pledge of revenues, notes and other assets and which shall
138 be payable solely from the revenues, assets and other resources of the
139 subsidiary. The Connecticut Green Bank may assign to a subsidiary
140 any rights, moneys or other assets it has under any governmental
141 program. No subsidiary of said bank shall borrow without the
142 approval of the board of directors of said bank.

143 (iii) Each such subsidiary shall act through its board of directors or
144 managing members, at least one-half of which shall be members of the
145 board of directors of said bank or their designees or officers or
146 employees of said bank.

147 (iv) The provisions of section 1-125 and this subsection shall apply
148 to any officer, director, designee or employee appointed as a member,
149 director or officer of any such subsidiary. Any such person so
150 appointed shall not be personally liable for the debts, obligations or
151 liabilities of any such subsidiary as provided in section 1-125. The
152 subsidiary shall, and said bank may, save harmless and indemnify
153 such officer, director, designee or employee as provided by section 1-
154 125.

155 (v) The Connecticut Green Bank, or such subsidiary, may take such
156 actions as are necessary to comply with the provisions of the Internal
157 Revenue Code of 1986, or any subsequent corresponding internal
158 revenue code of the United States, as amended from time to time, to
159 qualify and maintain any such subsidiary as a corporation exempt
160 from taxation under said code.

161 (vi) The Connecticut Green Bank may make loans to each such
162 subsidiary from its assets and the proceeds of its bonds, notes and
163 other obligations, provided the source and security for the repayment
164 of such loans is derived from the assets, revenues and resources of the
165 subsidiary.

166 (2) (A) The Connecticut Green Bank may seek to qualify as a
167 Community Development Financial Institution under Section 4702 of
168 the United States Code. If approved as a Community Development
169 Financial Institution, said bank would be treated as a qualified
170 community development entity for purposes of Section 45D and
171 Section 1400N(m) of the Internal Revenue Code.

172 (B) Before making any loan, loan guarantee, or such other form of
173 financing support or risk management for a clean energy project, the
174 Connecticut Green Bank shall develop standards to govern the

175 administration of said bank through rules, policies and procedures that
176 specify borrower eligibility, terms and conditions of support, and other
177 relevant criteria, standards or procedures.

178 (C) Funding sources specifically authorized include, but are not
179 limited to:

180 (i) Funds repurposed from existing programs providing financing
181 support for clean energy projects, provided any transfer of funds from
182 such existing programs shall be subject to approval by the General
183 Assembly and shall be used for expenses of financing, grants and
184 loans;

185 (ii) Any federal funds that can be used for the purposes specified in
186 subsection (c) of this section;

187 (iii) Charitable gifts, grants, contributions as well as loans from
188 individuals, corporations, university endowments and philanthropic
189 foundations;

190 (iv) Earnings and interest derived from financing support activities
191 for clean energy projects backed by the Connecticut Green Bank;

192 (v) If and to the extent that the Connecticut Green Bank qualifies as
193 a Community Development Financial Institution under Section 4702 of
194 the United States Code, funding from the Community Development
195 Financial Institution Fund administered by the United States
196 Department of Treasury, as well as loans from and investments by
197 depository institutions seeking to comply with their obligations under
198 the United States Community Reinvestment Act of 1977; and

199 (vi) The Connecticut Green Bank may enter into contracts with
200 private sources to raise capital. The average rate of return on such debt
201 or equity shall be set by the board of directors of said bank.

202 (D) The Connecticut Green Bank may provide financing support
203 under this subsection if said bank determines that the amount to be
204 financed by said bank and other nonequity financing sources do not

205 exceed eighty per cent of the cost to develop and deploy a clean energy
206 project or up to one hundred per cent of the cost of financing an energy
207 efficiency project.

208 (E) The Connecticut Green Bank may assess reasonable fees on its
209 financing activities to cover its reasonable costs and expenses, as
210 determined by the board.

211 (F) The Connecticut Green Bank shall make information regarding
212 the rates, terms and conditions for all of its financing support
213 transactions available to the public for inspection, including formal
214 annual reviews by both a private auditor conducted pursuant to
215 subdivision (2) of subsection (f) of this section and the Comptroller,
216 and providing details to the public on the Internet, provided public
217 disclosure shall be restricted for patentable ideas, trade secrets,
218 proprietary or confidential commercial or financial information,
219 disclosure of which may cause commercial harm to a
220 nongovernmental recipient of such financing support and for other
221 information exempt from public records disclosure pursuant to section
222 1-210.

223 (3) No director, officer, employee or agent of the Connecticut Green
224 Bank, while acting within the scope of his or her authority, shall be
225 subject to any personal liability resulting from exercising or carrying
226 out any of the Connecticut Green Bank's purposes or powers.

227 Sec. 2. Subsection (e) of section 16-245n of the general statutes is
228 repealed and the following is substituted in lieu thereof (*Effective from*
229 *passage*):

230 (e) (1) The powers of the Connecticut Green Bank shall be vested in
231 and exercised by a board of directors, which shall consist of eleven
232 voting and two nonvoting members each with knowledge and
233 expertise in matters related to the purpose and activities of said bank
234 appointed as follows: The Treasurer or the Treasurer's designee, the
235 Commissioner of Energy and Environmental Protection or the
236 commissioner's designee and the Commissioner of Economic and

237 Community Development or the commissioner's designee, each
238 serving ex officio, one member who shall represent a residential or
239 low-income group appointed by the speaker of the House of
240 Representatives for a term of four years, one member who shall have
241 experience in investment fund management appointed by the minority
242 leader of the House of Representatives for a term of three years, one
243 member who shall represent an environmental organization appointed
244 by the president pro tempore of the Senate for a term of four years,
245 and one member who shall have experience in the finance or
246 deployment of renewable energy appointed by the minority leader of
247 the Senate for a term of four years. Thereafter, such members of the
248 General Assembly shall appoint members of the board to succeed such
249 appointees whose terms expire and each member so appointed shall
250 hold office for a period of four years from the first day of July in the
251 year of his or her appointment. The Governor shall appoint four
252 members to the board as follows: Two for two years who shall have
253 experience in the finance of renewable energy; one for four years who
254 shall be a representative of a labor organization; and one who shall
255 have experience in research and development or manufacturing of
256 clean energy. Thereafter, the Governor shall appoint members of the
257 board to succeed such appointees whose terms expire and each
258 member so appointed shall hold office for a period of four years from
259 the first day of July in the year of his or her appointment. The
260 president of the Connecticut Green Bank shall be elected by the
261 members of the board. The president of the Connecticut Green Bank
262 and a member of the board of Connecticut Innovations, Incorporated,
263 appointed by the chairperson of the corporation shall serve on the
264 board in an ex-officio, nonvoting capacity. The Governor shall appoint
265 the chairperson of the board. The board shall elect from its members a
266 vice chairperson and such other officers as it deems necessary and
267 shall adopt such bylaws and procedures it deems necessary to carry
268 out its functions. The board may establish committees and
269 subcommittees as necessary to conduct its business.

270 (2) The members of the board of directors of the Connecticut Green
271 Bank shall adopt written procedures, in accordance with the

272 provisions of section 1-121, for: (A) Adopting an annual budget and
273 plan of operations, including a requirement of board approval before
274 the budget or plan may take effect; (B) hiring, dismissing, promoting
275 and compensating employees of said bank, including an affirmative
276 action policy and a requirement of board approval before a position
277 may be created or a vacancy filled; (C) acquiring real and personal
278 property and personal services, including a requirement of board
279 approval for any nonbudgeted expenditure in excess of five thousand
280 dollars; (D) contracting for financial, legal, bond underwriting and
281 other professional services, including a requirement that said bank
282 solicit proposals at least once every three years for each such service
283 that it uses; (E) issuing and retiring bonds, bond anticipation notes and
284 other obligations of said bank; (F) awarding loans, grants and other
285 financial assistance, including eligibility criteria, the application
286 process and the role played by said bank's staff and board of directors;
287 and (G) the use of surplus funds to the extent authorized under this
288 section or other provisions of the general statutes.

289 (3) Notwithstanding the provisions of any other law to the contrary,
290 it shall not constitute a conflict of interest for a trustee, director,
291 partner or officer of any person, firm or corporation, or any individual
292 having a financial interest in a person, firm or corporation, to serve as a
293 member of the board of directors of the Connecticut Green Bank,
294 provided such trustee, director, partner, officer or individual shall
295 abstain from deliberation, action or vote by the Connecticut Green
296 Bank in specific respect to such person, firm or corporation.

297 Sec. 3. Subsection (h) of section 16-245n of the general statutes is
298 repealed and the following is substituted in lieu thereof (*Effective from*
299 *passage*):

300 (h) The state of Connecticut does hereby pledge to and agree with
301 any person with whom the Connecticut Green Bank may enter into
302 contracts pursuant to the provisions of this section that the state will
303 not limit or alter the rights hereby vested in said bank until such
304 contracts and the obligations thereunder are fully met and performed

305 on the part of said bank, provided nothing herein contained shall
306 preclude such limitation or alteration if adequate provision shall be
307 made by law for the protection of such persons entering into contracts
308 with said bank.

309 (i) The powers enumerated in this section shall be interpreted
310 broadly to effectuate the purposes established in this section and shall
311 not be construed as a limitation of powers.

312 (j) To the extent that the provisions of this section are inconsistent
313 with the provisions of any general statute or special act or parts
314 thereof, the provisions of this section shall be deemed controlling.

315 [(h)] (k) (1) (A) Wherever the term "Clean Energy Finance and
316 Investment Authority" is used in the following general statutes, the
317 term "Connecticut Green Bank" shall be substituted in lieu thereof: 1-
318 79, 1-120, 1-124, 1-125, 7-233z, 16-244c, 16-245m, 16-245aa, 16-245bb, 16-
319 245ee, 16-245ff, as amended by this act, 16-245hh, 16-245kk, 16-245ll,
320 16-245mm, 16a-40d to 16a-40g, inclusive, as amended by this act, 16a-
321 40l, 16a-40m, 22a-200c and 32-141.

322 (B) Wherever the term "authority" is used in the following general
323 statutes, the term "bank" shall be substituted in lieu thereof: 16-245aa,
324 16-245ff, as amended by this act, 16-245hh, 16-245kk, 16-245ll, 16-
325 245mm and 16a-40e to 16a-40g, inclusive, as amended by this act.

326 (2) Wherever the term "Clean Energy Finance and Investment
327 Authority" is used in any public or special act of 2014, the term
328 "Connecticut Green Bank" shall be substituted in lieu thereof.

329 (3) The Legislative Commissioners' Office shall, in codifying the
330 provisions of this section, make such technical, grammatical and
331 punctuation changes as are necessary to carry out the purposes of this
332 section.

333 Sec. 4. Subsection (g) of section 16a-40g of the 2016 supplement to
334 the general statutes is repealed and the following is substituted in lieu
335 thereof (Effective from passage):

336 (g) Benefit assessments levied pursuant to this section and the
337 interest, fees and any penalties thereon shall constitute a lien against
338 the qualifying commercial real property on which they are made until
339 they are paid. Such lien, or if the financing agreement provides that the
340 benefit assessments shall be paid in installments then each installment
341 payment, shall be collected in the same manner as the property taxes
342 of the participating municipality on real property, including, in the
343 event of default or delinquency, with respect to any penalties, fees and
344 remedies. Each such lien may be recorded and released in the manner
345 provided for property tax liens and [, subject to the consent of existing
346 mortgage holders,] shall take precedence over all other liens or
347 encumbrances except a lien for taxes of the municipality on real
348 property, which lien for taxes shall have priority over such benefit
349 assessment lien, and provided that the precedence of such benefit
350 assessment lien over any lien held by an existing mortgage holder shall
351 be subject to the written consent of such existing mortgage holder. To
352 the extent benefit assessments are paid in installments and any such
353 installment is not paid when due, the benefit assessment lien may be
354 foreclosed to the extent of any unpaid installment payments and any
355 penalties, interest and fees related thereto. In the event such benefit
356 assessment lien is foreclosed, such benefit assessment lien shall survive
357 the judgment of foreclosure to the extent of any unpaid installment
358 payments of the benefit assessment secured by such benefit assessment
359 lien that were not the subject of such judgment.

360 Sec. 5. Subsections (a) to (d), inclusive, of section 16-245ff of the 2016
361 supplement to the general statutes are repealed and the following is
362 substituted in lieu thereof (*Effective from passage*):

363 (a) As used in this section and section 16-245gg, as amended by this
364 act:

365 (1) "Performance-based incentive" means an incentive paid out on a
366 per kilowatt-hour basis.

367 (2) "Expected performance-based buydown" means an incentive
368 paid out as a one-time upfront incentive based on expected system

369 performance.

370 (3) "Qualifying residential solar photovoltaic system" means a solar
371 photovoltaic project that receives funding from the Connecticut Green
372 Bank, is certified by the authority as a Class I renewable energy source,
373 as defined in subsection (a) of section 16-1, emits no pollutants, [is less
374 than twenty kilowatts in size,] is located on the customer-side of the
375 revenue meter of one-to-four family homes and serves the distribution
376 system of an electric distribution company.

377 (4) "Solar home renewable energy credit" means a Class I renewable
378 energy credit created by the production of one megawatt hour of
379 electricity generated by one or more qualifying residential solar
380 photovoltaic systems with an approved incentive from the Connecticut
381 Green Bank on or after January 1, 2015.

382 (b) The Connecticut Green Bank, established pursuant to section 16-
383 245n, as amended by this act, shall structure and implement a
384 residential solar investment program established pursuant to this
385 section [, which] that shall support the deployment of not more than
386 three hundred megawatts of new residential solar photovoltaic
387 installations located in this state on or before (1) December 31, 2022, or
388 (2) the deployment of three hundred megawatts of residential solar
389 photovoltaic installation, in the aggregate, whichever occurs sooner,
390 provided the bank [does] shall not approve direct financial incentives
391 under this section for more than one hundred megawatts of new
392 qualifying residential solar photovoltaic systems, in the aggregate,
393 between [the July 2, 2015,] the effective date of this section and April 1,
394 2016. The procurement and cost of such program shall be determined
395 by the bank in accordance with this section.

396 (c) The Connecticut Green Bank shall offer direct financial
397 incentives, in the form of performance-based incentives or expected
398 performance-based buydowns, for the purchase or lease of qualifying
399 residential solar photovoltaic systems or power purchase agreement
400 from such systems until the earlier of the following: (1) December 31,
401 2022, or (2) the deployment of three hundred megawatts, in the

402 aggregate, of residential solar photovoltaic installation. The bank shall
403 consider willingness to pay studies and verified solar photovoltaic
404 system characteristics, such as operational efficiency, size, location,
405 shading and orientation, when determining the type and amount of
406 incentive. Notwithstanding the provisions of subdivision (1) of
407 subsection (h) of section 16-244c, the amount of renewable energy
408 produced from Class I renewable energy sources receiving tariff
409 payments or included in utility rates under this section shall be
410 applied to reduce the electric distribution company's Class I renewable
411 energy source portfolio standard until the Public Utilities Regulatory
412 Authority approves the master purchase agreement pursuant to
413 subsection (e) of section 16-245gg, as amended by this act.

414 (d) The Connecticut Green Bank shall develop and publish on its
415 Internet web site a proposed schedule for the offering of performance-
416 based incentives or expected performance-based buydowns over the
417 duration of any such solar incentive program. Any such direct
418 financial incentives shall only apply to the first twenty kilowatts of
419 direct current of the qualifying residential solar photovoltaic system.
420 Such schedule shall: (1) Provide for a series of solar capacity blocks the
421 combined total of which shall be a maximum of three hundred
422 megawatts and projected incentive levels for each such block; (2)
423 provide incentives that are sufficient to meet reasonable payback
424 expectations of the residential consumer and provide such consumer
425 with a competitive electricity price, taking into consideration the
426 estimated cost of residential solar installations, the value of the energy
427 offset by the system, the cost of financing the system, and the
428 availability and estimated value of other incentives, including, but not
429 limited to, federal and state tax incentives and revenues from the sale
430 of solar home renewable energy credits; (3) provide incentives that
431 decline over time and will foster the sustained, orderly development of
432 a state-based solar industry; (4) automatically adjust to the next block
433 once the board has issued reservations for financial incentives
434 provided pursuant to this section from the board fully committing the
435 target solar capacity and available incentives in that block; and (5)
436 provide comparable economic incentives for the purchase or lease of

437 qualifying residential solar photovoltaic systems or power purchase
438 agreements from such systems. The Connecticut Green Bank may
439 retain the services of a third-party entity with expertise in the area of
440 solar energy program design to assist in the development of the
441 incentive schedule or schedules. The Department of Energy and
442 Environmental Protection shall review and approve such schedule.
443 Nothing in this subsection shall restrict the Connecticut Green Bank
444 from modifying the approved incentive schedule to account for
445 changes in federal or state law or regulation or developments in the
446 solar market when such changes would affect the expected return on
447 investment for a typical residential solar photovoltaic system by ten
448 per cent or more. Any such modification shall be subject to review and
449 approval by the department.

450 Sec. 6. Section 16-245gg of the 2016 supplement to the general
451 statutes is repealed and the following is substituted in lieu thereof
452 (*Effective from passage*):

453 (a) Not later than [one hundred eighty] two hundred fifty days after
454 July 1, 2015, the Connecticut Green Bank shall negotiate and develop
455 [a] master purchase [agreement] agreements with each electric
456 distribution company. Each such agreement shall [have a term of
457 fifteen years, and] require the electric distribution company to
458 purchase, annually, fifteen-year tranches of solar home renewable
459 energy credits produced by qualifying residential solar photovoltaic
460 systems. Each electric distribution company's annual obligation to
461 purchase fifteen-year tranches of solar home renewable energy credits
462 produced by qualifying residential solar photovoltaic systems begins
463 on the date that the Public Utilities Regulatory Authority approves the
464 master purchase agreement pursuant to subsection (e) of this section
465 and the obligation to purchase additional fifteen-year tranches expires
466 on December 31, 2022.

467 (b) Solar home renewable energy credits shall be owned by the
468 Connecticut Green Bank, until transferred to an electric distribution
469 company pursuant to a master purchase agreement in accordance with

470 subsection (a) of this section. A solar home renewable energy credit
471 shall have an effective life covering the year of its production and the
472 following calendar year. The obligation of the electric distribution
473 companies to purchase solar home renewable energy credits pursuant
474 to the master purchase agreement shall be apportioned [to electric
475 distribution companies based on their respective distribution system
476 loads at the commencement of the master purchase agreement period,
477 as determined by the authority] as follows: (1) In the service area of an
478 electric distribution company that has a service area of not more than
479 seventeen cities and towns, twenty per cent of the annual aggregate
480 credits; and (2) in the service area of an electric distribution company
481 that has a service area of eighteen or more cities and towns, eighty per
482 cent of the annual aggregate credits.

483 (c) Notwithstanding subdivision (1) of subsection (h) of section 16-
484 244c, an electric distribution company may retire the solar home
485 renewable energy credits it procures through the master purchase
486 agreement to satisfy its obligation pursuant to section 16-245a or such
487 company may resell such renewable energy credits, with the proceeds
488 from resale to be netted against contract costs.

489 (d) To develop a master purchase agreement, the Connecticut Green
490 Bank and an electric distribution company shall negotiate in good faith
491 the final terms of the draft master purchase agreement. Thirty days
492 after the date negotiations commence, either the Connecticut Green
493 Bank or an electric distribution company may initiate a docket
494 proceeding before the Public Utilities Regulatory Authority to resolve
495 any outstanding issues pertaining to the master purchase agreement.

496 (e) Upon completion of negotiations on a master purchase
497 agreement the Connecticut Green Bank and the electric distribution
498 company shall not later than January 1, 2016, and thereafter as
499 applicable, jointly file, with the authority, an application for approval
500 of the agreement by the authority. No such master purchase agreement
501 may become effective without approval of the authority. The authority
502 shall hold a contested case, in accordance with the provisions of

503 chapter 54, to approve, reject or modify an application for approval of
504 the master purchase agreement.

505 (f) The purchase price of solar home renewable energy credits shall
506 be determined by the Connecticut Green Bank, and such purchase
507 price shall decline over time commensurate with the schedule of
508 declining performance-based incentives and expected performance-
509 based buydowns. Such purchase price shall not exceed the lesser of
510 either (1) the price of small zero-emission renewable energy credit
511 projects for the preceding year, or (2) five dollars less per renewable
512 energy credit than the alternative compliance payment pursuant to
513 subsection (k) of section 16-245. [Any customer of an electric
514 distribution company that is eligible for the residential solar
515 investment program shall not be eligible for small zero-emission
516 renewable energy credits pursuant to section 16-244s.] Any solar
517 project located on a property that contains or will contain any
518 residence of a customer of an electric distribution company that is
519 determined to meet the Connecticut Green Bank criteria as a
520 residential dwelling for the residential solar investment program shall
521 not be eligible for small zero-emission renewable energy credits
522 pursuant to sections 16-244r and 16-244s or for low-emission
523 renewable energy credits pursuant to section 16-244t.

524 (g) The electric distribution companies' costs associated with
525 complying with this section shall be recoverable on a timely basis
526 through a fully reconciling, nonbypassable rate component. Nothing in
527 this section shall preclude the resale or other disposition of energy or
528 associated renewable energy credits purchased by an electric
529 distribution company, provided the electric distribution company shall
530 net the cost of payments made to projects under the master purchase
531 agreement against the proceeds of the sale of energy or renewable
532 energy credits and the difference shall be credited or charged to
533 electric distribution company customers through a reconciling
534 component of electric rates as determined by the authority that is
535 nonbypassable when switching electric suppliers.

536 (h) Each electric distribution company shall annually file with the
 537 authority an accounting of all costs and fees incurred by such electric
 538 distribution company while complying with the master purchase
 539 agreement.

540 (i) Any certificates issued by the New England Power Pool
 541 Generation Information System for Class I renewable energy credits
 542 produced by a qualifying residential solar photovoltaic system after
 543 the electric distribution company obligation, pursuant to subsections
 544 (a) and (b) of this section, to purchase solar home renewable energy
 545 credits from such system expires shall be transferred from the
 546 Connecticut Green Bank to the electric distribution [company that
 547 services the area where such residential solar photovoltaic system is
 548 located] companies as follows: (1) In the service area of an electric
 549 distribution company that has a service area of not more than
 550 seventeen cities and towns, twenty per cent of such certificates; and (2)
 551 in the service area of an electric distribution company that has a service
 552 area of eighteen or more cities and towns, eighty per cent of such
 553 certificates. The electric distribution company shall either [(1)] (A)
 554 resell such credits into the New England Power Pool Generation
 555 Information System renewable energy credit market, to be used by any
 556 electric supplier or electric distribution company to meet the
 557 requirements of section 16-245a, so long as the revenues from such sale
 558 are credited to the electric distribution company's customers, or [(2)]
 559 (B) retain such certificates to meet such company's requirements under
 560 section 16-245a. In considering whether to sell or retain such
 561 certificates, the company shall select the option that is in the best
 562 interest of such company's ratepayers.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-245n(d)
Sec. 2	<i>from passage</i>	16-245n(e)
Sec. 3	<i>from passage</i>	16-245n(h)
Sec. 4	<i>from passage</i>	16a-40g(g)
Sec. 5	<i>from passage</i>	16-245ff(a) to (d)

Sec. 6	from passage	16-245gg
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Statement of Legislative Commissioners:

In Section 2(e)(2), "obligations of the authority" was changed to "obligations of said bank" for accuracy; and in the introductory language of Section 3, "Subdivision" was changed to "Subsection" for accuracy and consistency.

ET *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
CT Innovations Inc. (quasi-public)	CI Funds - Savings	Minimal	Minimal

Note: All Funds=All Funds

Municipal Impact: None

Explanation

The bill expands the Connecticut Green Bank's powers to allow it to: (1) hire its own employees; (2) enter into and invest in joint ventures to form businesses that advance the bank's purposes; (3) subject to certain conditions, form subsidiaries to carry out the bank's purposes; and (4) removes the provision that places the bank within Connecticut Innovations, Inc. (CI) for administrative purposes only. The bill results in minimal administrative savings to CI by removing the Green Bank from CI for administrative purposes only.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 366*****AN ACT CONCERNING ADMINISTRATION OF THE CONNECTICUT GREEN BANK, THE PRIORITY OF THE BENEFIT ASSESSMENTS LIEN UNDER THE GREEN BANK'S COMMERCIAL SUSTAINABLE ENERGY PROGRAM AND THE GREEN BANK'S SOLAR HOME RENEWABLE ENERGY CREDIT PROGRAM.*****SUMMARY:**

This bill expands the Connecticut Green Bank's powers to, among other things, allow it to (1) hire its own employees; (2) enter into and invest in joint ventures to form businesses that advance the bank's purposes; and (3) subject to certain conditions, form subsidiaries to carry out the bank's purposes. The bill removes the provision in current law that places the bank within Connecticut Innovations, Inc. (CII) for administrative purposes only.

The bill requires the bank's board of directors to adopt certain procedures related to operating the bank independently and allows those in certain leadership positions in other businesses to serve on the bank's board without a conflict of interest as long as they don't participate in the bank's deliberations, actions, or votes about their other business. It also specifies that the state pledges to, and agrees with, any person with whom the Green Bank contracts that the state will not limit or alter the bank's rights unless (1) the bank has fully met its obligations under the contracts or (2) the state provides adequate provisions in law to protect the other parties to the contracts.

The bill also makes several changes to the Green Bank's residential solar investment program, such as (1) allowing the program to use power purchase agreements as incentives, (2) extending the deadline for the bank and electric distribution companies (EDCs, i.e., Eversource and United Illuminating) to negotiate a master purchase agreement

under which the companies must buy renewable energy credits generated through the program, and (3) requiring the companies to purchase 15-year tranches (blocks) of credits under the agreement annually through 2022.

Lastly, the bill makes a minor change to the Green Bank's Commercial Property Assessed Clean Energy (C-PACE) program to specify how the priority of the program's liens is subject to an existing mortgage holder's consent.

EFFECTIVE DATE: Upon passage

GREEN BANK POWERS

The bill makes the Green Bank independent of CII and maintains its existing powers to carry out its purposes (generally, to (1) develop programs to finance, support, and promote investment in clean energy projects and (2) stimulate demand for clean energy and the deployment of clean energy sources in the state). It also gives the bank new powers and specifies that these powers are in addition to, and not in limitation of, any other powers the bank already has. It gives the Green Bank the power to:

1. have perpetual succession as a corporate body and adopt bylaws, policies, and procedures to regulate its affairs and business conduct;
2. make and enter into all contracts and agreements needed or incidental to conduct its business;
3. invest in, acquire, lease, purchase, own, manage, hold, sell, and dispose of real or personal property or any interest in it;
4. borrow money or guarantee a return to investors or lenders;
5. hold patents, copyrights, trademarks, marketing rights, licenses, or other intellectual property rights;
6. invest the funds that are not needed for immediate use or

disbursement under investment policies adopted by the bank's board of directors;

7. procure property or business insurance against any loss or liability in such types and amounts and from such insurers as it deems desirable;
8. enter into a memorandum of understanding or other arrangements with CII that provide for space sharing, office systems, or administrative support staff; and
9. do anything else necessary or convenient to carry out the bank's purposes.

The bill allows the Green Bank to employ any assistants, agents, and employees that it needs or wants, who (1) must be exempt from the state employee classified service (i.e., not subject to state employee civil service laws) and (2) will not be allowed to collectively bargain as state employees. The bank may establish all needed or appropriate personnel practices and policies, including those related to hiring, promotion, compensation, and retirement. It may also engage consultants, attorneys, financial advisers, appraisers, and other professional advisers as it needs or wants.

The bill allows the bank to enter into joint ventures and invest in and participate with any person, including government entities and private corporations, to form, own, manage, and operate business entities formed to advance the bank's purposes. These entities include stock and nonstock corporations, LLCs, and general or limited partnerships. If the bank's officers, employees, or members of its board of directors serve as the business entity's directors, members, or officers, their service must be deemed to be in the discharge of their bank duties or within the scope of their bank employment as long as it does not result in them receiving any compensation or financial benefit from the business entity.

It also specifies that (1) the bank's powers specified in statute must

be interpreted broadly to effectuate its purposes and not be construed as a limitation of its powers and (2) if any provision of the Green Bank's statutes is inconsistent with any other state laws or special acts, the bank's statutes must be deemed controlling.

Subsidiaries

The bill allows the Green Bank to form subsidiaries to carry out its purposes and transfer money or property of any kind or nature to them. The subsidiaries may be organized as a stock or nonstock corporation or a limited liability company (LLC). Each subsidiary must have and exercise (1) the bank's powers, as stated in a resolution by the bank's board of directors that prescribes why the subsidiary was formed, and (2) any other powers provided to it by law. Each subsidiary must act through its board of directors or managing members, at least half of which must be either (1) members of the bank's board of directors or their designees or (2) the bank's officers or employees.

Under the bill, the bank's subsidiaries must be considered quasi-public agencies under the state law regulating such agencies and must have all the privileges, immunities, tax exemptions, and other exemptions of the Green Bank. However, no subsidiary may hire or retain employees and its governing documents must require it to dissolve after completing the purpose for which it was formed. The subsidiaries may sue and be sued, but their liability is limited solely to their assets, revenues, and resources, without recourse to the bank's general funds, revenues, resources, or other assets.

The bill authorizes the subsidiaries to (1) assume or take title to property subject to an existing lien, encumbrance, or mortgage and (2) mortgage, convey, or dispose of their assets and pledge their revenues to secure any borrowing. If a subsidiary borrows or mortgages its property it must be as the subsidiary's special obligation, which may be in the form of bonds, bond anticipation notes, and other obligations to (1) fund and refund the obligation; (2) provide for the rights of the bonds', notes', or other obligations' holders; and (3) secure the

obligation by pledging revenues, notes, and other assets that must be payable solely from the subsidiary's revenues, assets and other resources. The Green Bank may assign a subsidiary any rights, moneys, or other assets it has under any governmental program. No subsidiary may borrow without approval from the bank's board of directors.

Under the bill, any of the bank's officers, directors, designees, or employees appointed as a subsidiary's member, director, or officer receives the personal liability protection afforded to directors, officers, and employees of other quasi-public agencies and will not be personally liable for the subsidiary's debts, obligations, or liabilities. The subsidiary must, and the bank may, save harmless and indemnify an appointee from financial loss and expense if the appointee was acting in the discharge of his or her duties or within the scope of his or her employment and the actions were not wanton, reckless, willful or malicious.

The bill allows the Green Bank and its subsidiaries to take any actions needed for a subsidiary to qualify and remain a tax exempt corporation under federal tax laws. It also allows the bank to make loans to the subsidiaries from its assets and the proceeds from its bonds, notes, and other obligations, as long as the source and security for the loans' repayment comes from the subsidiary's assets, revenues, and resources.

Green Bank Board of Directors

Procedures. Current law requires the Green Bank's board of directors to adopt bylaws and procedures need to carry out its functions but does not mandate any specifics. The bill requires the directors to adopt written procedures for the following:

1. adopting an annual budget and operations plan, including a requirement for the board's approval before the budget or plan takes effect;
2. hiring, dismissing, promoting, and compensating the bank's

employees, including an affirmative action policy and a requirement for board approval before a position is created or filled;

3. acquiring real and personal property and personal services, including a requirement for board approval for any non-budgeted expenditure over \$5,000;
4. contracting for financial, legal, bond underwriting, and other professional services, including a requirement for the bank to solicit proposals at least once every three years for each service it uses;
5. issuing and retiring bonds, notes, and other obligations of the bank;
6. awarding loans, grants, and other financial assistance, including eligibility criteria, the application process, and the bank's staff and directors role in it; and
7. using surplus funds as allowed by law.

All of these procedures must be adopted under the notice requirements for quasi-public agencies (generally, at least 30 days' notice in the *Connecticut Law Journal*).

Conflicts of Interest. The bill specifies that, regardless of any other law, it is not a conflict of interest for a trustee, director, partner, or officer of any business (person, firm, or corporation), or anyone with a financial interest in a business, to serve on the bank's board of directors, as long as they abstain from any of the bank's deliberations, actions, or votes in respect to the business.

RESIDENTIAL SOLAR INVESTMENT PROGRAM

The bill makes several changes to the Green Bank's Residential Solar Investment Program, which offers financial incentives for purchasing or leasing certain residential solar photovoltaic systems. Under current law, eligible systems must be less than 20 kilowatts (kW) in

size. The bill eliminates this size restriction and instead limits the financial incentives to a system's first 20 kW of direct current.

Currently, the incentives are either (1) performance-based incentives paid out on a per kilowatt-hour (kWh) basis for the electricity the system produces or (2) expected performance-based buy downs that are a one-time upfront payment based on the system's expected performance. The bill allows the incentives to also be power purchase agreements (PPAs) and requires the PPAs to be included in the schedule of incentives that the Green Bank must post on its website.

Current law prohibits customers who are eligible for the program from also participating in the small Z-REC program (a similar program that requires the EDCs to purchase renewable energy credits from zero-emission facilities). The bill instead applies the prohibition to any solar projects located on a property that contains or will contain a residence that meets the bank's criteria as a residential dwelling for the program. It also extends the prohibition to include participation in the L-REC program (a similar program that requires the EDCs to purchase credits from low-emission facilities). Basing the prohibitions on individual projects, rather than customers, allows customers who may own multiple facilities to participate in different programs for each facility.

The bill also changes the timeframe during which the bank can only approve incentives for a limited amount of systems. Current law prohibits the bank from approving incentives for more than 100 megawatts of new systems between July 2, 2015 and April 1, 2016. The bill instead applies that prohibition between the time it becomes effective and April 1, 2016 (since the bill will not become effective until after April 1, 2016, it is unclear what legal effect this change will have, if any).

Master Purchase Agreement

Current law requires the Green Bank, within 180 days after July 1, 2015, to negotiate and develop a 15-year master purchase agreement

with each EDC that requires the EDC to purchase the renewable energy credits produced through the program. Each EDC's obligation to purchase credits must (1) begin once PURA approves the agreement; (2) expire on December 31, 2022; and (3) be apportioned based on its distribution system's demand for electricity when the agreement begins, as determined by PURA.

The bill gives the bank and EDCs an extra 70 days to negotiate and develop the agreements. And instead of requiring the agreements to have 15-year terms with the EDCs' obligation to purchase credits expiring at the end of 2022, the bill requires the (1) agreements to require the EDCs to purchase 15-year tranches of credits produced through the program and (2) companies to purchase 15-year tranches of credits each year through the end of 2022. (In practice, the bank and companies have completed their negotiations on the agreements, which include terms similar to the bill's, and are waiting to submit them for PURA's approval).

The bill also requires the EDCs' obligation to purchase credits to be apportioned based on a fixed percentage, rather than on their respective systems' electricity demand. Under the bill, 20% of the annual aggregate of credits must be purchased by an EDC that serves up to 17 cities and towns (i.e., United Illuminating) and the other 80% of the credits must be purchased by an EDC that serves at least 18 cities and towns (i.e., Eversource). It makes the same change to how the renewable energy credits must be apportioned between the EDCs after their obligation to purchase the credits expires.

C-PACE

The Green Bank's C-PACE program provides financing for energy efficiency or renewable energy improvements on certain commercial properties in participating municipalities. The property owner repays the cost of the improvements through an assessment on the property, backed by a lien that takes precedence over all other liens except municipal tax liens, subject to the consent of existing mortgage holders. The bill specifies that the requirement for the existing

mortgage holders' consent applies individually to each mortgage holder and its particular mortgage, not collectively, and the consent must be in writing.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 15 Nay 7 (03/22/2016)